

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-4, 32, 33, 113-118, 122-126, 143, 144, 147, 151, 152, 154, 155, 158, 161, 163, 212-217, 219, 220, 222-226, 228-230, 236-238, 240-244, 249-252, 255, 258, and 259 have been rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement; Claims 23, 24, 172, and 173 have been rejected under 35 U.S.C. § 102 as being anticipated by Danks et al. (U.S.P. 5,868,773, hereinafter “Danks ‘773”); and Claims 1-15, 17-20, 22-25, 27, 31-50, 91, 96-235, and 245-260 have been rejected under 35 U.S.C. § 103 as being unpatentable over Danks ‘773 in view of Danks (U.S.P. 5,607,440, hereinafter “Danks ‘440”). Claims 1-15, 17-20, 22-25, 27, 31-50, 91, 96-235, and 245-260 remain active.

Considering first then the rejection of Claims 1-4, 32, 33, 113-118, 122-126, 143, 144, 147, 151, 152, 154, 155, 158, 161, 163, 212-217, 219, 220, 222-226, 228-230, 236-238, 240-244, 249-252, 255, 258, and 259 under 35 U.S.C. § 112, first paragraph, it is to be noted that the claims have now been appropriately amended where necessary to correct the same as suggested by the Examiner. More particularly, the claims have been amended so as to specify that it is the cannula that holds the tissue expanders and that the penetrator carries the planar blades. In addition, Claims 236-238 were previously canceled.

Considering next then the rejection of Claims 23, 24, 172, and 173 under 35 U.S.C. § 102 as being anticipated by Danks et al. ‘773, it is to be noted that each of independent Claims 23 and 172 specify that the guard has a safety guard edge angle smaller than a blade edge angle of the blade when viewed in plan view. The advantage of this feature is clearly emphasized at page 3, lines 2-7, page 4, lines 22-28, and page 18, line 31 through page 19, line 8, and at page 19, lines 27-32. More particularly, this feature permits advancing of the

guards at the moment of penetration through the peritoneum, thus providing effective protection of the tip of the blade beyond the peritoneum so as to thus effectively protect the patient.

In the Office Action it is mentioned that the blade guard shown in Figure 5D shows guard 51 covering the distal tip of the blade and the edges of the blade, as well as having an edge angle which is smaller than the blading edge angle, Applicant notes however that, as mentioned at column 3, lines 47-50 of Danks et al. '773, Figure 5D is indicated as illustrating “a sectional side plan view of the piercing tip shown in Fig. 5A mounted in an obturator sheath with a shield in its extended protective position” (emphasis added). Accordingly, Danks et al. does not provide a teaching corresponding to Applicant's claimed limitation. Moreover, a review of the side view 5C clearly demonstrates that the guard 51 covering the distal tip of the blade has a much wider apex angle as compared with the bladed and edge angle of blade 81. Accordingly, in view of the fact that each independent claim in the present application claims that the guard has an edge angle smaller than a blade edge angle of the blade when viewed in plan view it is submitted that each independent claim of the present application patentably defines over Danks et al. '773 as well as the remaining references of record. In addition, in view of the limitation set forth in all of the dependent claims dependent upon the independent claims, and the fact that Danks et al. '773 and the remaining references of record clearly do not teach or disclose such limitations, and in view of the dependency of such claims upon the independent claims, it is submitted that such dependent claims also merit indication of allowability.

Considering next then the rejection of Claims 1-15, 17-20, 22-25, 27, 31-50, 91, 96-235, and 245-260 as being unpatentable under 35 U.S.C. §103 over Danks et al. '773 in view of Danks et al. '440, it is to be first of all noted that at page 5, lines 5 and 6 of the Office Action, the Examiner specifically admits that “Danks '773 does not teach a cutting blade with

an edge angle smaller than the edge angle of the guard.” (emphasis added), which thus supports the above-noted argument that Danks et al. ‘773 does not teach the above-emphasized limitations regarding the guard edge angle being smaller than the blade edge angle. In view of this admission, the Examiner instead indicates that Danks et al. ‘440 shows a trocar cutting blade (81) and a shield (15) which has a smaller edge angle than the cutting blade in plan view (Fig. 7A-9B). Applicant notes, however, that each of Figures 7A, 8A, and 9A are side views of blade 81 having distal end 87. This is supported by the fact that the Figure description in column 3 of Danks et al. ‘440 indicates that Fig. 7A illustrates “a side view of the improved shield design”, Fig. 8A illustrates “a side view of the improved shield design” and that Fig. 9A illustrates “a side view of the improved shield design”. Correspondingly, Fig. 7B, 8B, and 9B are each illustrated as being top views of the shields and a review of each of these Figures only shows that the shield in 51 has an apex angle which is significantly greater than that of the blade 81.

Should the Examiner maintain a contrary position to Applicant’s interpretation explained above, the Examiner is requested to specifically illustrate how any of the above-noted Figures 7A-9B can possibly teach or disclose Applicant’s claimed limitation.

In view of the foregoing, it is submitted that each of the claims rejected as noted above patentably define over Danks et al. ‘773 when combined with Danks et al. ‘440 and that the claims also patentably define over all of the remaining references of record.

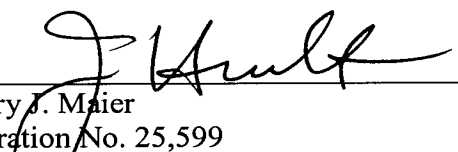
The Examiner is invited to contact Applicant's attorneys should any question arise with regard to this amendment. Further, since substantially all amendments made in the present application are for the purpose of compliance with 35 U.S.C. § 112, first paragraph, entry of this amendment is believed to be merited and the same is hereby respectfully requested.

Respectfully submitted,

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